THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

-

WRIT APPEAL No.118 OF 2000

-

Dt. 2.8.2005

Between:

1. The Singareni Collieries Co. Ltd.,

   Rep. by its Managing Director,

   Kothagudem, Khammam district and others. ..Appellants

   And

1. B.Lingaiah and others. .. Respondents.

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HON'BLE SMT.JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL No.118 OF 2000

JUDGMENT: (per the Hon'ble Smt.Justice T.Meena Kumari)

This Writ Appeal is filed by the appellants-Management aggrieved by the Order, dated 26.07.1999, in Writ Petition No.15721 of 1991 passed by a learned single Judge of this Court.

The parties are referred to as they are arrayed in the Writ Petition.

The said Writ Petition was filed by the writ petitioners with the prayer as follows:

1. to declare the action of the respondents in granting Category-II as Welder-Trainees to the petitioners as illegal and arbitrary and consequently direct the respondents to treat the petitioners as Welders in Category-V/those who are working in Heavy Earth Moving Machinery in Group-D in accordance with settlement dated 26.06.1984 with all consequential benefits;

2. to declare the settlement entered between the Management and Workmen under Section 12(3) of Industrial Disputes Act dated 14.07.1990 as illegal, invalid and not binding on the petitioners.

It is the case of the writ petitioners that after passing I.T.I. course in Welder trade, they joined the respondent-company as apprentices for a period of one year by an Office Order dated 06.12.1987 on a consolidated stipend of Rs.400/- per month; that their services were terminated along with others who were working in the other trades, after completion of the stipulated period of one year; that an agreement was entered into between the Management and the Workers Union under Section 12(3) of the Industrial Disputes Act on 26.06.1984 and under Demand No.5, it was agreed that all moulders, turners and welders etc., will start with category-V with effect from 01.02.1982 provided that those persons were designated as such after performing duties as prescribed for those categories as per the Wage Board recommendation and that in pursuance of the settlement entered into between the Management and the Workmen on 14.07.1990, the writ petitioners were appointed by proceedings dated 23.10.1990 and 03.01.1991 for the post under Category-II by the Management and that they have accepted the said appointments and continued as such.

The grievance of the writ petitioners is that the persons whose services were also terminated along with them were appointed in Category-V as per the

settlement, dated 26.06.1984, but they were denied of the same. Therefore, the claim of the petitioners is that they should have been appointed in Category-V instead of Category-II as per the settlement, dated 26.06.1984.

The respondents have filed their counter-affidavit denying the averments made in the Writ Petition.

The learned single Judge allowed the Writ Petition observing that the writ petitioners have been appointed as apprentices by an Order dated 06.12.1987 for a period of one year and they have completed the training by 06.12.1988 and hence they are entitled for the benefit under the settlement dated 26.06.1984. The learned Judge also observed that the writ petitioners are entitled to start with Category-V. Aggrieved by the same, the present Writ Appeal has been preferred by the Management.

It is the contention of the learned counsel for the respondent-Management that the writ petitioners are not entitled to claim the benefit of Demand No.5 of settlement dated 26.06.1984 in view of the fact that the said settlement is for those persons who were in service as on 01.02.1982 and since the writ petitioners were never in service as on 01.02.1982, they cannot claim the benefit of category-V.

The undisputed fact remains that the writ petitioners have undertaken the training as apprentices from 06.12.1987 to 06.12.1988 and their services were terminated after completion of the prescribed period of one year. On 14.07.1990, a settlement was entered into between the Management and the Workers Union, pursuant to which, appointment orders were issued to the writ petitioners.

Learned counsel for the respondent-Management has contended that the prayer sought in the Writ Petition is two fold i.e.,

1)to declare the action of the respondents in granting Category-II as Welder-Trainees to the petitioners as illegal and arbitrary and consequently to direct the respondents to treat the petitioners as Welders in Category-V and 2) to declare the settlement entered into between the Management and the Workmen under Section 12(3) of the Industrial Disputes Act dated 14.07.1990 as illegal, invalid and not binding on the petitioners and unless the writ petitioners get the settlement entered into between the Management and the Workmen on 14.07.1990 declared as illegal and not binding on them before the appropriate forum, they cannot get the relief

under prayer No.1.

We are perfectly in agreement with the contention raised by the learned counsel for the respondent-Management.

As a matter of fact, though the writ petitioners have been appointed pursuant to the settlement dated 14.07.1990, but, they are seeking the benefit as per the settlement arrived at between the workmen and the management dated 26.06.1984 on the ground that the persons who were terminated along with the writ petitioners are given the benefit under the earlier settlement. In this regard, it is very peculiar to note that the alleged persons who have got the benefit under the earlier settlement as alleged by the writ petitioners are not on record and there are no such proceeding conferring benefit to them as per the earlier settlement before this Court to adjudicate the issue as to whether there is any discrimination or not. In the absence of such material, we have no hesitation to hold that the writ petitioners cannot claim any benefit under the settlement dated 26.06.1984.

Under the facts and circumstances of the case, we allow the Writ Appeal and set aside the Order of the learned single Judge. But, however, the writ petitioners are given liberty to approach the appropriate forum for the relief sought under prayer No.2 of the writ petition. It is also made clear that the dismissal of the Writ Petition shall not stand in the way of the respondent-Management for giving subsequent promotions to which the writ petitioners are entitled to in accordance with law. No order as to costs.

(T.MEENA KUMARI, J)

(P.LAKSHMANA REDDY, J)

Dt: 02.08.2005

bsv/lvl